

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re:

PATRICK D. HAYES JR. and
KAREN J. O'BRIEN-HAYES
Debtors

Chapter 13

Case No. 20-40313-CJP

DEBTORS' OBJECTION TO PROOF OF CLAIM #16 of U.S. BANK NATIONAL ASSOCIATION AS TRUSTEE FOR ASSET BACKED SECURITIES CORPORATION HOME EQUITY LOAN TRUST 2004-HE8, ASSET BACKED PASS-THROUGH CERTIFICATES, SERICES 2004-HE8

NOW COME THE DEBTORS and objects pursuant to Fed. R. Bankr. P. 3007 and L.R. 3007-1 to Claim #16, U.S. BANK NATIONAL ASSOCIATION as Trustee for Asset Backed Securities Corporation Home Equity Loan Trust 2004-HE8, Asset Backed Pass-Through Certificates, Serices 2004-HE8 for the reasons set forth below.

I. Factual Background of Objection

1. Debtors filed a skeletal Chapter 13 petition on March 2, 2020 to stop a foreclosure on their home at 18 Maplewood Ave. in Marlborough.
2. Debtors also own a three-family rental property at 88 East Street in Fitchburg. The property is fully rented and generating sufficient rental income to make the mortgage loan payment and contribute to debtors' ability to make plan payments. Although the loan had been modified in 2017, at the time of filing their petition, debtors believed that the loan was contractually current. There had not been notified of any payment arrears or escrow shortages.
3. Claimant, U.S. Bank, N.A., filed a proof of claim on April 14, 2020 asserting a secured claim for \$239,918.53 in total, including \$10,463.85 in alleged pre-petition arrears.
4. The Proof of Claim asserts that there is an "escrow deficiency for funds advanced" of \$6,494.91; and a "projected escrow shortage" of 1,680.62.

07/01/2020 THE DEBTORS ARE HEREBY ORDERED TO FILE A CERTIFICATE OF CONFERENCE IN ACCORDANCE WITH RULE 13-13(F) OF APPENDIX 1 OF THE MLBR WITHIN SEVEN (7) DAYS OF THE DATE OF THIS ORDER OR THE OBJECTION TO CLAIM MAY BE OVERRULED.